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HEARINGS CLERK  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DOCKET NO. CWA-10-2019-0102

COEUR ALASKA INC., KENSINGTON  
MINE

**CONSENT AGREEMENT**

Juneau, Alaska

Respondent.

Proceedings Under Section 309(g) of the Clean  
Water Act, 33 U.S.C. § 1319(g)

**I. STATUTORY AUTHORITY**

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 309(g) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g).

1.2. Pursuant to CWA Section 309(g)(1)(A), 33 U.S.C. § 1319(g)(1)(A), EPA is authorized to assess a civil penalty against any person that has violated CWA Section 301, 33 U.S.C. § 1311, and/or any permit condition or limitation implementing any of such sections in a permit issued under CWA Section 402, 33 U.S.C. § 1342.

1.3. CWA Section 309(g)(2)(B), 33 U.S.C. § 1319(g)(2)(B), authorizes the administrative assessment of Class II civil penalties in an amount not to exceed \$10,000 per day for each day during which the violation continues, up to a maximum penalty of \$125,000. Pursuant to 40 C.F.R. Part 19, the administrative assessment of Class II civil penalties may not exceed \$21,933 per day for each day during which the violation continues, up to a maximum

penalty of \$274,159. See also 84 Fed. Reg. 2056 (February 6, 2019) (2019 Civil Monetary Penalty Inflation Adjustment Rule).

1.4. Pursuant to CWA Section 309(g)(1)(A) and (g)(2)(B), 33 U.S.C. § 1319(g)(1)(A) and (g)(2)(B), and in accordance with Section 22.18 of the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and Coeur Alaska Inc. (“Respondent”) agrees to issuance of, the Final Order attached to this Consent Agreement.

## **II. PRELIMINARY STATEMENT**

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Administrator has delegated the authority to sign consent agreements between EPA and the party against whom a penalty is proposed to be assessed pursuant to CWA Section 309(g), 33 U.S.C. § 1319(g), to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Director of the Enforcement and Compliance Assurance Division, EPA Region 10 (“Complainant”).

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of the CWA, together with the specific provisions of the CWA and implementing regulations that Respondent is alleged to have violated.

### III. ALLEGATIONS

#### Statutory and Regulatory Framework

3.1. As provided in CWA Section 101(a), 33 U.S.C. § 1251(a), the objective of the CWA is “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

3.2. CWA Section 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person from any point source into waters of the United States except, *inter alia*, as authorized by a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to CWA Section 402, 33 U.S.C. § 1342.

3.3. The CWA defines “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source” and defines “navigable waters” to include “waters of the United States.” CWA § 502(7), (12), 33 U.S.C. § 1362(7), (12). Waters of the United States include waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce; all interstate waters; and tributaries of those waters. 40 C.F.R. § 122.2.

3.4. The CWA defines “pollutant” to include, *inter alia*, rock, sand, cellar dirt, biological materials, dredged spoil, and solid waste discharged into water. CWA § 502(6), 33 U.S.C. § 1362(6).

3.5. The CWA defines “point source” to include, *inter alia*, “any pipe, ditch, channel, tunnel, conduit, well, [or] discrete fissure . . . from which pollutants are or may be discharged.” CWA § 502(14), 33 U.S.C. § 1362(14).

3.6. The CWA specifies that stormwater discharge “associated with industrial activity” (industrial stormwater) includes the discharge from any conveyance which is used for

collecting and processing or raw materials storage areas at an industrial plant. Industrial stormwater is a type of pollutant. CWA § 402(p), 33 U.S.C. § 1342(p); 40 C.F.R. §§ 122.26(a)(1)(ii), 122.26(b)(14).

3.7. An NPDES permit is required for any stormwater “discharge associated with industrial activity.” CWA § 402(p)(2)(B), 33 U.S.C. § 1342(p)(2)(B); 40 C.F.R. § 122.26(a)(1)(ii).

3.8. On September 29, 2008, EPA issued the Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity (“2008 MSGP”) (73 FR 56572). The 2008 MSGP expired on September 29, 2013, but was administratively extended.

3.9. EPA approved the State of Alaska Department of Environmental Conservation’s (“ADEC’s”) application to administer the NPDES Program in 2008. The State’s program is called the Alaska Pollutant Discharge Elimination System (“APDES”) Program.

3.10. In February 2015, ADEC issued the Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity (“2015 MSGP”) pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. The 2015 MSGP became effective on April 1, 2015, and expires on March 31, 2020. The 2015 MSGP replaced the 2008 MSGP.

3.11. The 2008 MSGP and 2015 MSGP authorize and set conditions on the discharge of pollutants from certain industrial activities to waters of the United States. The 2015 MSGP applies to waters of the United States located in the State of Alaska, with the exception of the Indian Reservation of Metlakatla and the Denali National Park and Preserve.

3.12. The 2008 MSGP and 2015 MSGP require facilities engaged in certain industrial activities to apply for permit coverage if stormwater from the facility discharges to a surface

water body, or to a storm sewer system that discharges to a surface water body. Permittees are required to comply with the conditions and requirements set forth in the applicable MSGP.

#### **General Allegations**

3.13. Respondent owns and operates the Kensington Mine (“the Mine”) located north of Juneau, Alaska.

3.14. Respondent is a “person” within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).

3.15. At all times relevant to this action, Respondent was the owner and/or operator of the Mine.

3.16. From August 18, 2015 through August 24, 2015, at the request of the EPA Region 10, EPA’s National Enforcement Investigations Center (“NEIC”) conducted a multimedia compliance investigation of the Mine in an effort to determine its compliance with its various permits.

3.17. The Mine discharges stormwater into Johnson Creek and Slate Creek. Johnson Creek flows into Berners River, which flows into Berners Bay, which is an inlet from the Pacific Ocean. Slate Creek flows into Slate Creek Cove, which flows to Berners Bay, which is an inlet from the Pacific Ocean. The creeks, Berners River, and Berners Bay are all “navigable waters” as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), and are “waters of the United States” within the meaning of 40 C.F.R. § 122.2.

3.18. By discharging industrial stormwater from the Mine into waters of the United States, Respondent engaged in the “discharge of pollutants” from point sources within the meaning of CWA Sections 301(a) and 502(13), 33 U.S.C. §§ 1311(a) and 1362(12).

3.19. Respondent obtained permit coverage under the 2008 MSGP with permit number AKR05CA54 and 2015 MSGP with permit number AKR06AA50.

3.20. As required by the 2008 MSGP and the 2015 MSGP, Respondent developed a Stormwater Pollution Prevention Plan (“SWPPP”).

### **Violations**

3.21. As described below, between April of 2013 and March of 2018, Respondent violated CWA Section 301, 33 U.S.C. § 1311, and the conditions and/or limitations of the 2008 MSGP and/or the 2015 MSGP.

3.22. Both the 2008 MSGP (Part 5.1) and the 2015 MSGP (Part 5.1) require that the SWPPP contain a summary of potential pollutant sources and a site description. During the inspection, the NEIC team observed several potential pollutant sources that were not documented in the SWPPP and determined that the site map did not include all of the required information, including, for example, the locations of all existing structural control measures, in violation of Part 5.1 of the 2008 MSGP.

3.23. Both the 2008 MSGP (Part 2.1.2.4) and the 2015 MSGP (4.2.4.3) require that the Respondent implement procedures for expeditiously stopping, containing, and cleaning up non-petroleum-based leaks, spills, and other releases. In addition, both the 2008 MSGP (5.1.5.1) and the 2015 MSGP (5.2.6.1) require that procedures for preventing and responding to spills and leaks be documented in the SWPPP. Respondent did not have procedures for expeditiously stopping, containing, and cleaning up non-petroleum-based leaks, spills, and other releases, in violation of Parts 2.1.2.4 and 5.1.5.1 of the 2008 MSGP and Parts 4.2.4.3 and 5.2.6.1 of the 2015 MSGP.

3.24. Both the 2008 MSGP (4.2.1) and the 2015 MSGP (Part 6.2.1) require a quarterly visual assessment of each outfall, unless the requirements of Part 4.2.3 (2008 MSGP) and Part

6.2.3 (2015 MSGP) are met, which allow a permittee to document substantially similar outfalls, and then conduct a quarterly visual assessment at one of the substantially similar outfalls on a rotating basis each quarter. Respondent's SWPPP designated outfalls 3, 4, 5, 6, 7, 11, and 12 as substantially similar without sufficient documentation as required in Part 4.2.3 of the 2008 MSGP and Part 6.2.3 of the 2015 MSGP. In addition, based on a review of documents in the record, none of the outfalls are substantially similar. From the second quarter of 2014 to the second quarter of 2015, Respondent failed to conduct quarterly visual assessments at six of the outfalls each quarter, in violation of Part 4.2.1 of the 2008 MSGP and Part 6.2.1 of the 2015 MSGP.

3.25. Both the 2008 MSGP (4.2.1) and the 2015 MSGP (Part 6.2.1) require a quarterly visual assessment of each outfall, unless the requirements of Part 4.2.3 (2008 MSGP) and Part 6.2.3 (2015 MSGP) are met, which allow a permittee to document substantially similar outfalls, and then conduct a quarterly visual assessment at one of the substantially similar outfalls on a rotating basis each quarter. The Comet development rock pile discharges from the site without flowing through the Comet mine water treatment plant. Respondent failed to conduct quarterly visual monitoring for this outfall from the second quarter of 2014 through the second quarter of 2015, in violation of Part 4.2.1 of the 2008 MSGP and Part 6.2.1 of the 2015 MSGP.

3.26. Both the 2008 MSGP (Part 8.G.8.2) and the 2015 MSGP (Part 11.G.8.2) require monitoring of discharges from waste rock and overburden piles, including benchmark monitoring. The Comet development rock pile is an overburden pile and runoff from this rock pile is not captured by the Comet wastewater treatment plant's collection and treatment pond. Respondent failed to conduct benchmark monitoring from the Comet development rock pile

from the first quarter of 2013 through the fourth quarter of 2014, in violation of Part 8.G.8.2 of the 2008 MSGP and Part 11.G.8.2 of the 2015 MSGP.

3.27. Both the 2008 MSGP (Part 8.G.8.2) and the 2015 MSGP (Part 11.G.8.2) require monitoring of discharges from waste rock and overburden piles, including benchmark monitoring. Outfall 6 collects runoff from the coarse pebble reject (waste rock). Respondent failed to conduct benchmark monitoring from Outfall 6 from the first quarter of 2013 through the fourth quarter of 2014, in violation of Part 8.G.8.2 of the 2008 MSGP and Part 11.G.8.2 of the 2015 MSGP.

3.28. Both the 2008 MSGP (Part 8.G.8.2) and the 2015 MSGP (Part 11.G.8.2) require monitoring of discharges from waste rock and overburden piles, including benchmark monitoring. Outfall 3 collects runoff from the Jualin bench and the mill, the Kensington Portal development area, the Jualin Portal, and from the gold ore stockpile. Respondent failed to conduct benchmark monitoring from Outfall 3 from the first quarter of 2013 through the fourth quarter of 2014, in violation of Part 8.G.8.2 of the 2008 MSGP and Part 11.G.8.2 of the 2015 MSGP.

3.29. The 2008 MSGP (Part 8.G.8.2) requires monitoring of discharges from waste rock and overburden piles, including benchmark monitoring. Respondent conducted benchmark monitoring of Outfall 1 in 2014, which includes runoff from a waste rock pile. Part 6.2.1 of the 2008 MSGP requires that samples be analyzed consistent with 40 C.F.R. Part 136 analytical methods. 40 C.F.R. Part 136, Table II requires a maximum hold time of 15 minutes for the analysis of pH. Respondent exceeded the maximum hold time during the second quarter of 2014, in violation of Part 6.2.1 of the 2008 MSGP. 40 C.F.R. Part 136, Table IB lists approved methods for mercury analysis. Respondent did not use an approved method for mercury analysis during the second quarter of 2014, in violation of Part 6.2.1 of the 2008 MSGP. 40 C.F.R. Part

136, Table II identifies hold times and preservation techniques. During the second quarter of 2014, Respondent did not document that it followed the preservation techniques for total metals, mercury, and hardness samples, in violation of Part 6.2.1 of the 2008 MSGP.

3.30. Both the 2008 MSGP (Part 2.1.2.4) and the 2015 MSGP (Part 4.2.4.2) require permittees to minimize the potential for leaks, spills, and other releases that may be exposed to stormwater, including the use of secondary containment in material storage and handling areas. Both the 2008 MSGP (Part 2.1.2.3) and the 2015 MSGP (Part 4.2.3) require permittees to regularly inspect, test, maintain, and repair all systems to avoid situations that may result in leaks, spills, or other releases of pollutants in storm water discharged to receiving waters. Respondent constructed a secondary containment structure at the lower port laydown yard, which holds a majority of the mine's fuel while it awaits transport. Respondent's secondary containment structure was compromised from January 2014 through March 2015, in violation of Part 2.1.2.3 of the 2008 MSGP and Part 4.2.3 of the 2015 MSGP.

3.31. Both the 2008 MSGP (Part 4.3.1) and the 2015 MSGP (Part 6.1.1) require that inspections include, *inter alia*, areas identified in the SWPPP as potential pollutant sources. At the time of the NEIC inspection, NEIC shadowed an employee of Respondent during a quarterly inspection. This employee did not inspect areas identified in the SWPPP as potential pollutant sources, in violation of Part 4.3.1 of the 2008 MSGP and Part 6.1.1 of the 2015 MSGP. In addition, NEIC reviewed quarterly inspection reports from the second quarter of 2013 through the second quarter of 2015. These inspection reports do not include potential pollutant sources identified in the SWPPP, in violation of Part 4.3.1 of the 2008 MSGP and Part 6.1.1 of the 2015 MSGP.

3.32. Both the 2008 MSGP (Part 5.1.3.4) and the 2015 MSGP (Part 5.2.4.4) require documentation that shows that the permittee has evaluated for the presence of non-storm water

discharges and that all unauthorized discharges have been eliminated. For the second quarter of 2013 through the second quarter of 2015, Respondent does not have documentation that shows that it has evaluated for the presence of non-storm water discharges and that all unauthorized discharges have been eliminated, in violation of Part 5.1.3.4 of the 2008 MSGP and Part 5.2.4.4 of the 2015 MSGP.

3.33. Part 8.G.4.2.1 of the 2008 MSGP requires inspection of clearing, grading, and excavation activities either at least once every 7 calendar days, or at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater. The inspection frequency can be reduced to at least once a month if the entire site is temporarily stabilized pursuant to Part 8.G.4.3.2, if runoff is unlikely due to winter or frozen conditions, or construction is occurring during seasonal dry periods in arid areas and semi-arid areas. Active construction occurred at the Mine from January 2012 to February 2014. NEIC inspectors reviewed inspection documentation from this time-period of active construction. Based upon site data, when the Mine was noted as having frozen conditions from November through May of each year, at a minimum, monthly inspections were required. Respondent failed to conduct weekly inspections on May 22, 2013; June 3, 2013; June 10, 2013; July 4, 2013; July 12, 2013; July 26, 2013; August 4, 2013; August 19, 2013; August 26, 2013; September 25, 2013; October 4, 2013; and October 17, 2013, in violation of Part 8.G.4.2.1 of the 2008 MSGP. In addition, Respondent failed to conduct a monthly inspection in January of 2014, in violation of Part 8.G.4.2.1 of the 2008 MSGP.

3.34. Part 3.1 of the 2008 MSGP states that if a permittee finds during a routine facility inspection, quarterly visual assessment, or comprehensive site inspection that control measures are not being properly operated and maintained, that the permittee review and revise the selection, design, installation, and implementation of the control measure(s) to ensure that the

condition is eliminated and will not be repeated in the future. In addition, Part 3.4 of the 2008 MSGP requires specific documentation within 24 hours and then 14 days of discovery of any condition identified in Part 3.1. This documentation must be submitted in the annual reports and retained onsite. At the time of the inspection, the NEIC inspectors reviewed the 2014 annual comprehensive site evaluation, as well as quarterly and weekly inspection records from 2012 through 2014. The inspector identified 32 instances between April of 2013 and September of 2014 where the inspection revealed that control measures were not being properly operated and maintained. For all 32 of these instances, Respondent did not have corrective action documentation, as required by Part 3.4 of the 2008 MSGP.

3.35. Both the 2008 MSGP (Part 4.1.2) and the 2015 MSGP (Part 6.1.2) require that inspection reports contain, *inter alia*, the name(s) and signature(s) of the inspectors; and weather information and a description of any discharges occurring at the time of the inspection. At the time of the inspection, the NEIC inspector reviewed Respondent's quarterly inspection form, as well the 2014 annual comprehensive site evaluation, and quarterly and weekly inspection records from 2012 through 2014. The form did not include sections for the signature of the inspector(s) or for observations about the physical condition of and around all outfalls. In addition, six of the quarterly inspection forms from the first quarter of 2014 through the second quarter of 2015 did not include the inspector's signature, in violation of Part 4.1.2 of the 2008 MSGP. Furthermore, one form, dated October 30, 2013, did not include any weather information, in violation of Part 4.1.2 of the 2008 MSGP.

3.36. Both the 2008 MSGP (Part 4.2.1) and the 2015 MSGP (Part 6.2.1) require quarterly collection of stormwater samples. These samples must be collected within the first 30 minutes of an actual discharge from a storm event. If it is not possible to collect the sample within the first 30 minutes of discharge, the sample must be collected as soon as practicable after

the first 30 minutes and permittees must document why it is not possible to take samples within the first 30 minutes. During the NEIC inspection, the inspectors reviewed the quarterly visual assessment documentation from 2014 and 2015. None of the assessments were conducted within 30 minutes and there was no documentation why it was not possible to take samples within the first 30 minutes, in violation of Part 4.2.1 of the 2008 MSGP and Part 6.2.1 of the 2015 MSGP.

3.37. The 2008 MSGP (Part 4.2.1) requires quarterly collection of stormwater samples. Part 4.2.2 requires documentation of the results of these visual assessments, which must be maintained onsite with the SWPPP. Respondent does not have documentation of the quarterly visual assessments for quarter two, quarter three, and quarter four of 2013, in violation of Part 4.2.2 of the 2008 MSGP.

3.38. Both the 2008 MSGP (Part 2.1.2.9) and the 2015 MSGP (Part 4.2.9) require permittees to train employees who work in areas where industrial materials or activities are exposed to stormwater, or who are responsible for implementing activities necessary to meet the conditions of the MSGP. In addition, the 2015 MSGP (Part 11.G.6.5) requires that all supervisory personnel involved in directing the maintenance of storm water control measures be trained and qualified in the principles and practices of erosion and sediment control. Both the 2008 MSGP (Part 8.G.6.5) and the 2015 MSGP (Part 4.2.9) require that training documentation be documented in the SWPPP. At the time of the inspection, Respondent did not have documentation that Kevin Eppers, Coeur Alaska environmental manager, who directs his staff to conduct maintenance of storm water best management practices and also conducts annual compliance evaluations, had been trained in erosion and sediment control, in violation of Part 4.2.9 of the 2015 MSGP. At the time of the inspection, Respondent did not have documentation that Norman Alexander, Coeur Alaska surface operations supervisor, who directs his staff to conduct maintenance of storm water best management practices, had been trained in erosion and

sediment control, in violation of Part 4.2.9 of the 2015 MSGP. At the time of the inspection, only approximately 50 percent of Mr. Alexander's staff, who are tasked with cleaning and repairing storm water best management practices, were trained regarding the design, construction, operation, and maintenance of the best management practices, in violation of Part 4.2.9 of the 2015 MSGP.

3.39. The 2008 MSGP (Part 2.1.2.9) requires permittees to train employees who work in areas where industrial materials or activities are exposed to stormwater, or who are responsible for implementing activities necessary to meet the conditions of the MSGP. The 2008 MSGP (Part 8.G.5.1) also requires that employee training be conducted annually at active and temporarily active sites. The 2008 MSGP (Part 8.G.6.5) requires that training documentation be documented in the SWPPP. Respondent does not have documentation of the 2014 training, in violation of Part 8.G.6.5 of the 2008 MSGP.

3.40. The 2008 MSGP (Part 4.3.2) requires that documentation of the comprehensive site inspection be signed in accordance with Appendix B, Subsection 11 of the 2008 MSGP. Appendix B, Subsection 11 requires that all reports submitted to EPA for a corporation be signed by a responsible corporate officer, as defined in that subsection, or a duly authorized representative of that person. Appendix B, Subsection 11 contains specific requirements that must be followed for a responsible corporate officer to duly authorize a representative. Respondent's August 5, 2014 annual compliance evaluation was not signed by a responsible corporate officer, as defined in Appendix B, Subsection 11 of the 2008 MSGP or a duly authorized representative, in violation of Part 4.3.2 of the 2008 MSGP.

3.41. The 2008 MSGP (Part 4.3.2) requires that documentation of the comprehensive site inspection include a statement, signed and certified in accordance with Appendix B, Subsection 11 of the 2008 MSGP. The 2013 comprehensive site inspection, which was

submitted on January 14, 2014, was not certified in accordance with Appendix B, Subsection 11 of the 2008 MSGP, in violation of Part 4.3.2 of the 2008 MSGP.

#### **IV. TERMS OF SETTLEMENT**

4.1. Respondent admits the jurisdictional allegations contained in this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. As required by CWA Section 309(g)(3), 33 U.S.C. § 1319(g)(3), EPA has taken into account the nature, circumstances, extent, and gravity of the alleged violations as well as Respondent's economic benefit of noncompliance, ability to pay, and other relevant factors. After considering all of these factors, EPA has determined that an appropriate penalty to settle this action is \$210,000.

4.4. Respondent consents to the assessment of the civil penalty set forth in Paragraph 4.3 and agrees to pay the total civil penalty within 30 days of the effective date of the Final Order.

4.5. Payment under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077

**In the Matter of: COEUR ALASKA, INC.**  
**Docket Number: CWA-10-2019-0102**  
**Consent Agreement**  
**Page 14 of 17**

**U.S. Environmental Protection Agency**  
**1200 Sixth Avenue, Suite 900, M/S 11-C07**  
**Seattle, Washington 98101**  
**(206) 553-1037**

St. Louis, MO 63197-9000

Respondent must note on the check the title and docket number of this action.

4.6. Respondent must serve photocopies of the check, or proof of other payment method described in Paragraph 4.5, on the Regional Hearing Clerk and EPA Region 10 Compliance Officer at the following addresses:

Regional Hearing Clerk U.S. Environmental Protection Agency Region 10, Mail Stop 11-C07 1200 Sixth Avenue, Suite 900 Seattle, Washington 98101 young.teresa@epa.gov	Ray Andrews U.S. Environmental Protection Agency Region 10, Mail Stop 20-C04 1200 Sixth Avenue, Suite 900 Seattle, Washington 98101 andrews.raymond@epa.gov
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4.7. If Respondent fails to pay the penalty assessed by this Consent Agreement in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. Such failure may also subject Respondent to a civil action to collect the assessed penalty under the CWA, together with interest, fees, costs, and additional penalties described below. In any collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

a. Interest. Pursuant to CWA Section 309(g)(9), 33 U.S.C. § 1319(g)(9), any unpaid portion of the assessed penalty shall bear interest at a rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the Final Order set forth in Part V, provided however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order.

b. Attorneys Fees, Collection Costs, Nonpayment Penalty. Pursuant to CWA Section 309(g)(9), 33 U.S.C. § 1319(g)(9), if Respondent fails to pay on a timely basis

the penalty set forth in Paragraph 4.3, Respondent shall pay (in addition to any assessed penalty and interest) attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20% of the aggregate amount of Respondent's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

4.8. The penalty described in Paragraph 4.3, including any additional costs incurred under Paragraph 4.7, above, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.9. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.10. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violation(s) alleged in Part III above.

4.11. Except as described in Subparagraph 4.7.b., above, each party shall bear its own costs in bringing or defending this action.

4.12. Respondent expressly waives any right to contest the allegations and waives any right to appeal this Consent Agreement and the Final Order.

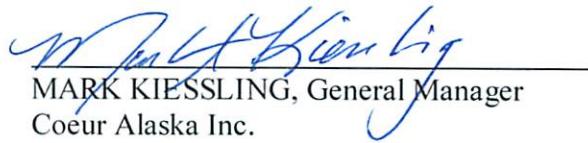
4.13. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.14. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

June 14, 2019

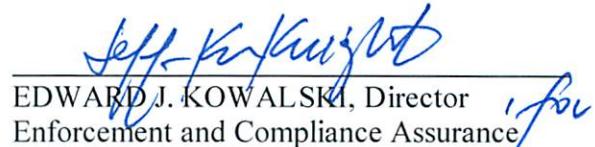
FOR RESPONDENT:

  
\_\_\_\_\_  
MARK KIESSLING, General Manager  
Coeur Alaska Inc.

DATED:

July 15, 2019

FOR COMPLAINANT:

  
\_\_\_\_\_  
EDWARD J. KOWALSKI, Director *for*  
Enforcement and Compliance Assurance  
Division  
EPA Region 10

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

COEUR ALASKA INC., KENSINGTON  
MINE

Juneau, Alaska

Respondent.

DOCKET NO. CWA-10-2019-0102

**FINAL ORDER**

Proceedings Under Section 309(g) of the Clean  
Water Act, 33 U.S.C. § 1319(g)

1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of the U.S. Environmental Protection Agency (EPA) Region 10, who has in turn delegated this authority to the Regional Judicial Officer in EPA Region 10.
2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.
3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties pursuant to the Clean Water Act (CWA) for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the CWA and regulations promulgated or permits issued thereunder.
4. Respondent waives any and all claims for relief and otherwise available rights or remedies to judicial or administrative review which the Respondent may have with respect to any

issue of fact or law set forth in this Final Order, including, but not limited to, any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701-708.

5. Pursuant to CWA Section 309(g)(1), 33 U.S.C. § 1319(g)(1), and 40 C.F.R. § 22.38(b), the Alaska Department of Environmental Conservation has been given the opportunity to consult with EPA regarding the assessment of the administrative civil penalty against Respondent.

6. Pursuant to CWA Section 309(g)(4)(A), 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA has issued public notice of and provided reasonable opportunity to comment on its intent to assess an administrative penalty against Respondent. More than 40 days have elapsed since issuance of this public notice and EPA has received no petition to set aside the Consent Agreement contained herein.

7. This Final Order shall become effective upon filing.

SO ORDERED this 1<sup>st</sup> day of August, 2019.



RICHARD MEDNICK  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: Coeur Alaska Inc., Kensington Mine, Docket No.: CWA-10-2019-0102**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

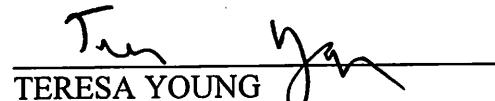
The undersigned certifies that a true and correct copy of the document was delivered to:

Ashley Palomaki  
U.S. Environmental Protection Agency  
Region 10, Mail Stop ORC-113  
1200 Sixth Avenue, Suite 155  
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Mark Kiessling  
General Manager, Kensington Mine  
Coeur Alaska Inc.  
3031 Clinton Drive, Suite 202  
Juneau, Alaska 99801

DATED this 5 day of August, 2019.

  
TERESA YOUNG  
Regional Hearing Clerk  
EPA Region 10